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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11
12 RELMON H. DAVIS, III,
13 Petitioner,

14 v.

15 DAVE DAVEY,
16 Respondent.
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Case No. SA CV 17-0999 DOC (JCG)

**ORDER SUMMARILY DISMISSING
ACTION WITHOUT PREJUDICE AND
DENYING CERTIFICATE OF
APPEALABILITY**

18 On June 6, 2017, petitioner Relmon H. Davis, III (“Petitioner”), a California
19 prisoner proceeding *pro se*, filed a Petition for Writ of Habeas Corpus pursuant to 28
20 U.S.C. § 2241 (“Petition”). [Dkt. No. 1.] Notably, this is not Petitioner’s first federal
21 petition challenging his 2009 state court conviction for assault with a deadly weapon
22 and forcible oral copulation. (*See* Pet. at 2.) Rather, Petitioner also challenged this
23 *same* conviction in 2013 (“2013 Petition”). [*See* C.D. Cal. Case No. SA CV 13-0886
24 DOC (JCG), Dkt. No. 1.] The 2013 Petition was denied. [*See id.*, Dkt. Nos. 4, 6, 7.]

25 Nevertheless, Petitioner failed to obtain the Ninth Circuit’s authorization to file
26 a “second or successive” petition before commencing the instant action. *See* 28 U.S.C.
27 § 2244(b). Thus, the Petition is an unauthorized “second or successive” petition, and
28 the Court must dismiss this action for lack of jurisdiction. *See id.* Moreover, an

1 “attack on a state court conviction may not be brought in a habeas petition under 28
2 U.S.C. § 2241 petition.” *Tomlinson v. McGrew*, 2014 WL 1512187, at *1-2 (C.D. Cal.
3 Mar. 18, 2014).

4 Accordingly, **IT IS ORDERED THAT** this action be **SUMMARILY**
5 **DISMISSED WITHOUT PREJUDICE**, pursuant to Rule 4 of the Rules Governing
6 Section 2254 Cases in the United States District Courts.

7 **IT IS FURTHER ORDERED** that a certificate of appealability be **DENIED**
8 because Petitioner has not shown that jurists of reason would find it debatable whether
9 this Court was correct in its procedural ruling. *See Slack v. McDaniel*, 529 U.S. 473,
10 484 (2000).

11 **LET JUDGMENT BE ENTERED ACCORDINGLY.**

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14 DATED: December 7, 2017



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16 HON. DAVID O. CARTER
UNITED STATES DISTRICT JUDGE
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